



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No.: 210319-0060]

RIN 0648-BK41

#### Fisheries of the Exclusive Economic Zone off Alaska; IFQ Program; Modify Temporary Transfer Provisions

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; emergency action; request for comments.

**SUMMARY:** NMFS issues this temporary rule (referred to herein as “emergency rule”) to modify the temporary transfer provision of the Individual Fishing Quota (IFQ) Program for the fixed-gear commercial Pacific halibut and sablefish fisheries for the 2021 IFQ fishing year. This emergency rule is intended to provide flexibility to quota share (QS) holders in 2021, while preserving the Program’s long-standing objective of maintaining an owner-operated IFQ fishery in future years. This emergency rule will not modify other provisions of the IFQ Program. This emergency rule is intended to promote the goals and objectives of the IFQ Program, the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, and other applicable laws.

**DATES:** Effective [*insert date of publication in the Federal Register*] through [*insert date 180 days after date of publication in the Federal Register*], except for § 679.41(h)(2), which is effective [*insert date 181 days after date of publication in the Federal Register*]. Comments must be received by [*insert date 30 days after date of publication in the Federal Register*].

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2021-0022, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2021-0022 in the search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. P.O. Box 21668, Juneau AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review (referred to as the “Analysis”) and the Categorical Exclusion prepared for this emergency rule may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this emergency rule may be submitted to NMFS at the above address and to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Abby Jahn, 907-586-7445, or

*abby.jahn@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Authority for Action*

The North Pacific Fishery Management Council (Council) developed the IFQ Program for the commercial Pacific halibut (halibut) and sablefish fisheries. The IFQ Program for the sablefish fishery is implemented by the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and Federal regulations at 50 CFR part 679 under the authority of section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act).

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Halibut Act. The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62.

Section 5 of the Halibut Act, 16 U.S.C. 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. Section 5(c) of the Halibut Act also provides the Council with authority to develop regulations, including limited access regulations that are in addition to, and not in conflict with,

approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

## **Background**

On February 10, 2021, the Council requested the Secretary promulgate emergency regulations under the authority of section 305(c) of the Magnuson-Stevens Act to allow the temporary transfer of catcher vessel (CV) halibut and sablefish IFQ for individuals who hold B, C, or D vessel class QS for the 2021 fishing season.

The following sections describe the IFQ Program, the existing IFQ transfer provisions, this emergency rule, and justification for emergency action.

### *The IFQ Program*

NMFS implemented the IFQ Program for the management of the fixed gear (hook-and-line and pot gear) halibut and sablefish fisheries off Alaska in 1995 (58 FR 59375; November 9, 1993). A central objective of the IFQ Program is to support the social and economic character of the fisheries and the coastal fishing communities where many of these fisheries are based.

Under the IFQ Program, access to the fixed gear sablefish and halibut fisheries is limited to those persons holding QS. NMFS issued separate QS for sablefish and halibut to qualified applicants based on their historical participation during a set of qualifying years in the sablefish and halibut fisheries. QS is an exclusive, revocable privilege that allows the holder to harvest a specific percentage of either the total allowable catch (TAC) in the sablefish fishery or the annual commercial catch limit in the halibut fishery. In addition to being specific to sablefish or halibut, QS is designated for specific geographic areas of harvest, a specific vessel operation type (CV or catcher/processor), and for a specific range of vessel sizes that may be used to harvest the sablefish or halibut (vessel category). There are four vessel categories of halibut QS: Category A shares are designated for catcher/processors, which process their catch at sea (*i.e.*, freezer longline

vessels) and do not have a vessel length restriction; Category B shares are designated to be fished on CVs greater than 60 feet length overall (LOA); Category C shares are designated to be fished on CVs greater than 35 feet, but less than or equal to 60 feet, LOA; and Category D shares are designated to be fished on CVs less than or equal to 35 feet LOA.

NMFS annually issues IFQ permits to each QS holder. An annual IFQ permit authorizes the permit holder to harvest a specified amount of the IFQ species in a regulatory area from a specific operation type and vessel category. IFQ is expressed in pounds and is based on the amount of QS held in relation to the total QS pool for each regulatory area with an assigned catch limit.

Another goal of the IFQ Program is to promote an owner-operator fleet. To meet these goals, the IFQ Program includes restrictions on the ability of QS holders to transfer their annual IFQ. The Council and NMFS recognized that, at the time the IFQ Program was implemented, some QS holders had long-standing business arrangements with hired masters who harvested IFQ on behalf of the QS holder. Therefore, the IFQ Program authorizes the use of hired masters in certain instances. Since the implementation of the IFQ Program, the Council has recommended and NMFS has approved further regulatory amendments to limit the ability of QS holders to designate a hired master to discourage absentee ownership and move towards an owner-operated program.

Halibut and sablefish are managed in separate geographic areas of harvest. The sablefish IFQ regulatory areas are defined and shown in Figure 14 to 50 CFR part 679 and in Section 3 of the Analysis. The halibut IFQ areas are consistent with the IPHC's regulatory areas. NMFS's IFQ regulatory areas are described in Figure 15 to 50 CFR part 679. This emergency rule uses the term "Area" to refer to a specific IFQ regulatory area (e.g., Area 2C).

#### *Temporary IFQ Transfer Provisions*

The Council developed transfer restrictions to retain the owner-operator nature of the CV fisheries and limit consolidation of QS. Only persons who were originally issued CV QS (B and C for sablefish; B, C, and D for halibut) or who qualified as crew members are allowed to hold or purchase CV QS. Only individuals and initial recipients are eligible to hold CV QS, and they are required to be on the vessel when the IFQ is being fished (with a few exceptions). Since 1998, transfers of CV IFQ have generally been prohibited except under a few specific conditions. Temporary transfers of CV IFQ are allowed under six special circumstances: 1) medical transfers; 2) beneficiary (survivorship) transfers; 3) military transfers; 4) transfers through Community Quota Entities; 5) transfers to Guided Angler Fish program; and 6) transfers to Community Development Quota groups in years of low halibut abundance. IFQ permits, and any associated transfers, are valid for a calendar fishing year.

#### *Medical Transfer Provision*

The IFQ Program includes a temporary medical transfer provision at 50 CFR 679.42(d)(2) that allows a QS holder not otherwise qualified to hire a master to temporarily transfer their annual IFQ if the QS holder or their immediate family member has a temporary medical condition that prevents them from fishing. The medical transfer provision is intended to provide a mechanism for QS holders who are experiencing a temporary medical condition that would prevent them from fishing during a season to transfer their annual IFQ to another individual.

An applicant for a temporary medical transfer must document a medical condition by submitting an affidavit to NMFS from a healthcare provider that describes the medical condition affecting the applicant and attests to the inability of the applicant to participate in the IFQ fishery for which she or he holds QS. In the case of a family member's medical emergency, the affidavit must describe the necessity for the QS holder to tend to an immediate family member who suffers from the medical condition. The Council

recommended and NMFS implemented regulations that limit the number of instances that QS holders may use the provision for any medical condition. As of March 16, 2020, NMFS will not approve a medical transfer if the QS holder has been granted a medical transfer in any three of the previous seven years for a medical condition (85 FR 8477; February 14, 2020).

#### *Hired Master Provision*

Initial recipients (excluding Areas 2C for halibut or SE for sablefish, which correspond to Southeast Alaska) of CV QS may be absent from the vessel conducting IFQ fishing of QS, provided the QS holder can demonstrate ownership of the vessel that harvests the IFQ halibut or sablefish (a minimum of at least 20 percent ownership interest in the vessel harvesting the IFQ for the 12 months prior to submitting the hired master application) and representation of the QS holder on the vessel by a hired master. This exception allows fishermen who traditionally operated their fishing businesses using hired masters prior to the IFQ Program implementation to continue to hire a master. By limiting the hired master provision to initial recipients, the use of this owner-on-board exception will decline and eventually cease with the transfer of all QS from initial recipients to new entrants (“second generation”).

The use of a hired master is not classified as a transfer of IFQ since the QS holder does not submit a transfer application and is responsible for the hired master staying within the harvest limits. While not technically a transfer, use of a hired master provides the flexibility of a transfer in that it allows an individual’s IFQ to be harvested by another person without requiring the QS holder to directly participate in the fisheries.

Under existing regulations, individuals who can hire a master to fish their IFQ are not eligible to use the medical transfer provision. Those who can typically hire a master include initial recipients in all areas, except for Southeast Alaska. Both initial recipients of Southeast Alaska halibut and sablefish QS and second generation QS holders are

eligible to use the medical transfer provision. QS holders who own QS in multiple areas often make landings in different parts of the State to fish their QS. Many QS holders live outside of Alaska and travel to the State of Alaska to fish their IFQ.

### **This Emergency Rule and Justification for Emergency Action**

This emergency rule implements a temporary IFQ transfer provision for the 2021 IFQ fishing year and corrects a regulation that was inadvertently removed on December 22, 2020. Specifically, this emergency rule adds regulations at § 679.41(h)(3) and (p) to allow temporary IFQ transfers in 2021. New paragraph (h)(3) prohibits IFQ resulting from categories B, C, or D QS from being transferred separately from its originating QS holder, except as specified under existing temporary transfer provisions and adds § 679.41(p) to the list of exceptions. New paragraph (p) describes the process for obtaining a temporary IFQ transfer for the 2021 IFQ fishing year.

This emergency rule also adds § 679.41(h)(2) back into the regulations, thus correcting an error that arose from the expiration of the 2020 temporary final rule, which published in the **Federal Register** on June 25, 2020 (85 FR 38100). Paragraph (h)(2) prohibited IFQ resulting from categories B, C, or D QS from being transferred separately from its originating QS, except as provided for in the temporary transfer provisions, including the 2020 temporary final rule. The temporary final rule was effective for 180 days: from June 25, 2020, through December 22, 2020. Upon expiration of the temporary final rule, § 679.41(h)(2) and (p) were removed in their entirety, resulting in the inadvertent deletion of the previously effective regulatory text at 50 CFR 679.41(h)(2). This action corrects that inadvertent deletion of the previously effective § 679.41(h)(2). With this temporary/emergency rule, new § 679.41(h)(2) will become effective upon expiration of this emergency rule (see **DATES**), thereby restoring the previously effective regulatory text.



The temporary IFQ transfer process described at § 679.41(p) is separate and distinct from the hired master and medical transfer provisions previously described, as well as any other IFQ transfer provisions in existing regulations. Any temporary IFQ transfer under § 679.41(p) will be applicable only during the 2021 IFQ fishing year. This action allows certain QS holders to transfer their IFQ for the 2021 fishing year. This action authorizes only a one-time transfer of IFQ from the QS holder to the IFQ recipient (transferee); IFQ cannot be returned to the QS holder or transferred a second time after a temporary transfer is approved by NMFS. The transferred IFQ may only be fished by the transferee receiving it (see Section 3.1 of the Analysis).

QS holders wishing to transfer their IFQ under this emergency rule need to complete an *Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota (IFQ)* found on <https://www.fisheries.noaa.gov/region/alaska>. A temporary IFQ transfer is valid only for the calendar year in which it is approved. Individuals who hold B, C, or D vessel class QS will be eligible to use this temporary provision. Corporations, partnerships, or other non-individual entities are not eligible to use this temporary IFQ transfer provision.

Although the temporary IFQ transfer provision described in § 679.41(p) is distinct from other IFQ transfer provisions in the regulations, the process for QS holders to apply for a transfer, and the NMFS review and approval process, is similar to those used for other IFQ transfer procedures in § 679.41. This emergency rule also removes the requirement for a notary certification and authorizes NMFS to approve an *Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota (IFQ)* in the 2021 IFQ fishing year without a notary certification. Removal of the notary requirement reduces the logistical and administrative burden on IFQ participants and NMFS staff.

This emergency rule is effective for 180 days from [insert date of publication in the Federal Register] through [insert date 180 days after date of publication in the

*Federal Register*]. However, the 2021 IFQ Fishing season closes on December 7, 2021, and NMFS is soliciting public comment on this emergency rule. As a result, NMFS will consider any comments received as it evaluates whether the effective period of this action should be extended up to an additional 186 days in the event that the Council prepares an action that would address this emergency on a permanent basis consistent with Magnuson-Stevens Act section 305(c)(3)(B). In consultation with the Council, NMFS will continue to monitor conditions in the fisheries, and NMFS will take additional action if recommended and necessary.

Section 305(c) of the Magnuson-Stevens Act authorizes the Secretary to promulgate regulations to address an emergency. Under that section, a regional fishery management council may request that the Secretary promulgate emergency rules if it finds an emergency exists. NMFS's Policy Guidelines for the Use of Emergency Rules require that an emergency must exist and that NMFS have an administrative record justifying emergency regulatory action and demonstrating compliance with the Magnuson-Stevens Act and the National Standards (see NMFS Procedure 01-101-07 (renewed October 3, 2018), (62 FR 44421, August 21, 1997). Emergency rulemaking is intended for circumstances that are “extremely urgent,” where “substantial harm to or disruption of the ... fishery ... would be caused in the time it would take to follow standard rulemaking procedures (62 FR 44421; August 21, 1997).”

Under NMFS's Policy Guidelines for the Use of Emergency Rules, the phrase “an emergency exists involving any fishery” is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances;
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate

benefits outweigh the value of advance notice, public comment, and deliberative

consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.

The following sections describe why the Council and NMFS determined that allowing transfer flexibility to all IFQ Program participants for the 2021 IFQ fishing year meets the three criteria above.

*Criterion 1—Recent, Unforeseen Events or Recently Discovered Circumstances*

Government health advisories and travel policies implemented to minimize spread of the COVID-19 pandemic remain in place and are likely to continue through the 2021 fishing year. In May 2020, when the Council first requested that the Secretary promulgate an emergency transfer regulation (85 FR 38100, June 25, 2020), the Council did not foresee the extended duration of the virus and subsequent impacts to the fishery, and the need to extend the 2020 temporary transfer emergency rule beyond the end of the 2020 IFQ Program fishing season. At the time that the Council recommended, and NMFS implemented, an emergency rule in 2020, there was a reasonable expectation that a COVID-19 vaccine could be developed and then broadly distributed such that additional emergency management measures would not be needed in 2021. Based on this expectation, the Council chose to not request that the Secretary seek public comment on the June 25, 2020 emergency rule, and create the opportunity for the Secretary to extend the emergency IFQ Program temporary transfer rule's effectiveness another 186 days and well into 2021. However, the continued dissemination of vaccines along with the existence of new virus variants necessitate the continuation of pandemic precautions that impede IFQ Program participant's travel and fishing operations.

In 2020, IFQ Program fishery participants stated that health mandates and travel restrictions increased costs to QS holders who live outside of Alaska. In addition to increased costs, ex-vessel prices for halibut and sablefish have decreased substantially in many Alaskan ports due to recent and unforeseen deteriorating market conditions (see

Section 3 of the Analysis). Additionally, health advisories and travel policies limit IFQ Program participant's ability to access remote Alaska fishing ports in a timely and cost-efficient manner.

Even if health advisories and restrictive travel policies are relieved during the 2021 IFQ fishing year, fishery participants may not be able to conduct fishing operations due to limited air travel to many Alaskan ports. Alternatively, health advisories and travel policies may possibly become more restrictive in response to the rapidly changing pandemic. Because of these circumstances it is important to provide maximum flexibility to the IFQ fishery.

As noted previously, existing hired master and medical transfer provisions are only available under specific conditions (*e.g.*, an individual may not receive a medical transfer unless a health care provider attests that their medical condition precludes their participation in IFQ fisheries). Due to these limitations, and the recent and unforeseen limitations on the IFQ fisheries, an emergency action is required to provide individual CV QS holders the ability to transfer IFQ during the 2021 fishing season. Sections 3.2 and 3.3 of the Analysis provides additional detail on medical transfer and hired master provisions, respectively.

*Criterion 2—Presents Serious Conservation or Management Problems in the Fishery*

Ongoing health advisories and travel policies present serious management problems in the IFQ fisheries. If there is not additional flexibility to transfer IFQ, some fishery participants may forego harvesting catch due to additional costs and logistical challenges.

If harvesters forego catch, this could result in the under-harvest of IFQ accounts. Under existing IFQ regulations, harvesters may “roll over” up to 10 percent of an IFQ permit's remaining balance to the following year (§ 679.40 (c)). However, anyone unable to harvest at least 90 percent of their allocation of IFQ would be at risk of foregoing

harvests. This occurred during the first two months of the IFQ season in 2020; from March 14 to May 7, there were 54 percent less halibut harvested and 11 percent less sablefish harvested than in 2019 over the same period (see Section 3 of the Analysis).

Given ongoing health advisories, travel policies and other related logistical challenges facing the IFQ fisheries, additional flexibility in IFQ transfer provisions will increase the ability for harvesters to harvest, and processors to process, a larger proportion of the overall TACs. This will directly address a serious management concern: foregone harvest due to recent, unforeseen, and recently discovered events.

NMFS notes that this emergency rule will not cause a conservation concern by increasing the risk of overharvest of IFQ. This emergency rule will not increase the halibut catch limits or the sablefish TACs. The total amount of IFQ issued will not increase. This emergency rule will not modify existing requirements on the types of vessels and gear that may be used, monitoring requirements, record keeping regulations, or other aspects of the IFQ Program.

*Criterion 3—Can Be Addressed Through Emergency Rulemaking for Which the Immediate Benefits Outweigh the Value of Notice and Comment Rulemaking*

Ongoing health advisories and travel policies impacting the IFQ fisheries can be addressed through emergency regulations for which the immediate benefits outweigh the value of our normal rulemaking process. As explained previously, not all QS holders are able to use existing regulatory provisions to transfer IFQ. Providing for a temporary transfer of IFQ for all CV QS holders for the 2021 IFQ fishing year will not create conservation or management concerns and is consistent with the overall goals of the IFQ Program—namely, to provide for the complete and efficient harvest of the halibut and sablefish resource and promote an owner-operated IFQ fishery (see Section 5 of the Analysis for additional detail).

To address the emergency, NMFS must implement an emergency rule that waives the prior notice-and-comment rulemaking period. The benefits of waiving prior notice-and-comment rulemaking will serve the industry and public by providing flexibility for IFQ participants. Any delay in implementing rulemaking may reduce opportunities to harvest halibut and sablefish. (see Section 4.2 of the Analysis).

Without immediate implementation, many IFQ Program participants may not have the flexibility in place to plan for the upcoming season, which may limit their ability to prosecute these fisheries as intended. The halibut and sablefish IFQ fisheries are harvested from numerous ports from hundreds of vessels that must be coordinated with other harvesting and processing activities. Increasing the flexibility for QS holders to transfer IFQ expeditiously provides additional opportunity for halibut and sablefish to be harvested in the 2021 fishing season. Vessel owners need time to secure crew, which may shift into other groundfish fisheries, non-groundfish fisheries, or other activities if they are unable to secure adequate IFQ to support their fishing operations. In addition, vessel owners need sufficient lead time to revise fishing plans, restock vessels, change gear, and have the vessel travel to and from the fishing grounds to prosecute the IFQ fisheries.

This emergency rule will not impose additional restrictions on the IFQ halibut and sablefish fisheries, but will alleviate one limitation relating to transfers. This emergency rule will not increase the amount of available harvests, increase any risk of overharvest, or otherwise modify conservation measures. This emergency rule is needed to allow for the complete and efficient harvest of the IFQ fisheries and to temporarily alleviate the unforeseen economic, social, and public health impacts on the IFQ fisheries that are detailed in this preamble.

The emergency rule considerations discussed herein also warrant instituting these IFQ temporary transfer measures in the halibut fisheries under the Halibut Act. The Halibut Act authorizes the Council to develop limited access program regulations for the

halibut fisheries that, in another step, must then be approved by the Secretary. As discussed further below, emergency-based halibut fishery regulations that waive prior notice and comment and a 30-day delay in effectiveness period must be consistent with the requirements of the Administrative Procedure Act (APA).

### **Classification**

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) of the APA to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. This emergency rule provides flexibility for QS holders to temporarily transfer their IFQ to an eligible individual to harvest their IFQ for the 2021 IFQ fishing year. This emergency rule applies only to CV QS that is held by individuals. This emergency rule will not modify any additional restrictions on IFQ transfers. Without the increased flexibility to temporarily transfer IFQ, there may be unforeseen challenges for harvesting and processing. The associated loss in harvesting and processing revenues would likely impact the harvesters, crew, and communities that are active in the IFQ Program.

Emergency action is necessary because the time required to follow the standard notice-and-comment rulemaking process prescribed by the Magnuson-Stevens Act and required by the APA will not provide sufficient time before the start of the 2021 IFQ fishing season (which was March 6, 2021), and will substantially cut into the season itself. NMFS has no other way than this emergency rule to amend these IFQ transfer provisions to provide additional flexibility to CV QS holders to mitigate negative impacts of the ongoing economic and operational challenges in 2021. Allowing for flexibility for 2021 will provide immediate economic benefits that outweigh the value of the deliberative notice-and-comment rulemaking process.

The need for emergency action, as described above also supports the need to waive the prior notice and comment period. For those reasons, and in the interest of

implementing this emergency rule in a timely manner, the Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness provision of the APA and make this emergency rule effective immediately upon publication in the **Federal Register**. As stated above, NMFS anticipates that this emergency rule will allow for harvest of the remaining IFQ and should prevent prolonged economic losses from the potential forgone harvests.

This action has been determined to be not significant for purposes of E.O. 12866.

This emergency/interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law.

Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### *Collection-of-Information Requirements*

This emergency rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted an emergency information request for this requirement to OMB for approval under a new control number. Due to the need to begin collecting this information immediately, NMFS is unable to allow for the time periods normally required for clearance under the PRA. This new collection will be discontinued after the 2021 fishing season, which ends December 7, 2021.

This information collection adds a checkbox to the *Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota (IFQ)*, which is approved under OMB Control Number 0648-0272. The checkbox will indicate the application is being submitted for a temporary transfer for the 2021 fishing year only. It also removes the notary certification for this application because this emergency rule does not require it for NMFS to approve this application for the 2021 IFQ fishing year. Additionally, NMFS will request that the revised *Application for Temporary Transfer of Halibut/Sablefish*



*Individual Fishing Quota (IFQ)* be added to OMB Control Number 0648-0272 to allow for future use of the form if necessary.

The public reporting burden for this form will remain at two hours, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The new information collection will cover the additional QS holders that NMFS estimates may use this form to request this temporary transfer. NMFS estimates 1,300 respondents, 650 total responses, 1,300 total burden hours, and \$6,500 total recordkeeping and reporting costs to the public for the new collection.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under Review" or by using the search function and entering the title of the collection.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 25, 2021.

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Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF  
ALASKA**

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447;  
Pub. L. 111-281.

2. In § 679.41, add paragraphs (h)(3) and (p) to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

\* \* \* \* \*

(h) \* \* \*

(3) IFQ resulting from categories B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (d), (f), (k), (l), (m), (o), or (p) of this section.

\* \* \* \* \*

(p) *Temporary IFQ transfer for 2021.* During the 2021 IFQ fishing year only, the Regional Administrator may approve a temporary transfer for IFQ derived from categories B, C, or D QS.

(1) A QS holder may apply for a temporary transfer by submitting an Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota (IFQ) to the

Alaska Region, NMFS. NMFS will transfer, upon approval of the application, the applicable IFQ from the applicant (transferor) to the recipient (transferee). The application is available at <http://alaskafisheries.noaa.gov> or by calling 1-800-304-4846. A certification from a notary is not required for NMFS to approve an Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota.

(2) [Reserved]

3. Effective [*insert date 181 days after date of publication in the Federal Register*], § 679.41 is further amended by adding paragraph (h)(2) to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

\* \* \* \* \*

(h) \* \* \*

(2) IFQ resulting from categories B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (d), (f), (k), (l), (m), or (o) of this section.

\* \* \* \* \*